

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4725 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI
and
Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

DALCHHIBEN WD/O.RAMABHAI KALUBHAI PATEL

Versus

AMBALAL PARSHOTTAMDAS UKAWALA

Appearance:

MR MOHANBHAI DESAI for appellant
MR VIPUL S MODI for Respondent No. 1
MR PV NANAVATI for Respondent No. 2
MR VIBHUTI NANAVATI for Respondent No. 2

CORAM : MR.JUSTICE N.G.NANDI
and
MR.JUSTICE J.R.VORA

Date of decision: 22/04/2002

ORAL JUDGEMENT (Per : MR.JUSTICE N.G.NANDI)

1. This Appeal under Section 173 of the Motor
Vehicles Act is directed against the award and judgment

passed in Motor Accident Claim Petition No. 661/91 by the Motor Accident Claims Tribunal (Aux.), Banaskantha at Palanpur, whereby the Tribunal awarded an amount of Rs. 96,000/- under the head of future loss of income applying the multiplier of 12 years considering the age of the deceased to be 45 years on the date of the accident.

2. Vide order dated 25.10.2001, notice was issued to the respondents in this Appeal.

3. Thereafter, the appellants gave proposal to the respondent claiming additional amount of Rs.1,28,000/- in addition to the amount of Rs. 1,11,000/- awarded by the Tribunal. It is stated by Mr. Nanavati that the proposal was sent to the Insurance Company but there is no response to the same.

4. It has been stated by Mr. M.N. Desai, learned advocate for the appellant that the multiplier of 12 applied by the Tribunal is on the lower side. Multiplier should have been of 15 years looking to the age of the deceased.

5. The deceased on the date of the accident was 45 years of age. As per the schedule, the multiplier applicable would be of 13 years instead of 12 years.

6. The income of the deceased has been estimated by the Tribunal at Rs. 1,000/- p.m. and deducting 1/3rd therefrom, the dependency benefit has been worked out.

7. It is submitted by Mr. Desai that the deceased had to feed 8 members in his family, his income can be reasonably estimated at Rs. 2,000/- p.m. Now, if 8 persons in the family are to be fed, then the income would obviously be more, and estimating the income at Rs. 1,000/- per month is obviously on a lower side. Considering the present cost of living, the income can reasonably be estimated at Rs. 2,000/- per month and deducting 1/3rd amount therefrom, being the personal expenses of the deceased, the net amount available with the family members would come to Rs. 1,340/- per month and applying the multiplier of 13 years, the amount would come to Rs. 2,08,000/- by way of loss of dependency benefit, deducting Rs.96,000/- therefrom being the amount awarded by the Tribunal as the loss of dependency benefit, the additional amount by way of loss of dependency benefit would come to Rs. 1,12,000/-.

8. Thus, as seen from the above, that the appellant would be entitled to an additional amount of Rs.

1,12,000/- by way of loss of dependency benefit applying the multiplier of 13 years looking to the age of the deceased to be 45 years on the date of the accident.

9. In view of the above, the respondent No.2 Insurance Company is directed to pay an additional amount of Rs. 1,12,000/-, over and above the amount awarded by the Tribunal by the impugned award, with 10% interest from the date of the application till the realization of the amount. The Appeal stands partly allowed to the abovesaid extent and with no order as to costs.

(N.G. Nandi, J.) (J.R. Vora, J.)

p.n.nair